

REMARKS

In the Office Action dated October 18, 2004, claims 1-47 were rejected. Claims 1-47 are now pending in the application. In view of the remarks, Applicant respectfully requests reconsideration of the application.

Claims 1-47 were rejected under U.S.C. § 103(a) as being unpatentable over US Publication No. 2002/0012403 (hereinafter Rhoads) in view of US Publication No. 2002/0056084 (hereinafter Harris).

The Rhoads reference teaches embedding information about the content with the content. The information about the content includes title, artist name, and name of the distributor. (Rhoads, paragraphs 26-29)

The Harris reference teaches a remote control that monitors the date, time, media type, and current channel that the user is current watching. Further, the Harris reference also teaches a remote control that logs the date, time, media type, and current channel for later uploading. (Harris, paragraph 44)

The Harris reference also teaches that the user would input into the remote control the current channel for the television or other device is set to. Further, the remote control would be synchronized to the television or other device for the current channel. The Harris reference further teaches that when the user utilizes the remote control to switch the current channel, the system constantly monitors the "current channel" by compensating for selections of the channel from the remote control. (Harris, paragraph 82)

Applicant previously amended Claims 1, 21, 33, 40, and 47 to include the limitation of:

wherein the marked data indicates a time selected by
a user while utilizing content and the marked data
represents the content that is broadcasted at the time

Applicant believes that neither the Rhoads nor the Harris references either singly or in combination teach the marked data that indicates a time selected by the user while utilizing the content and wherein the marked data represents content that is broadcasted at the time indicated by the marked data. Applicant believes that the Harris reference teaches a remote control that is in communication with a device. For example, the Harris reference teaches tracking and synchronizing the current channel on the remote control with the current channel being played in the device. Further, the current channel on the remote control device is part of the data that is uploaded to determine the content that is being played.

In marked contrast to the Harris reference, the “marked data” as recited within Claims 1, 21, 33, 40, and 47 represents the broadcasted content based on marked data wherein the marked data includes a time selected by the user and does not include channel information. Accordingly, the device utilized by the user to form the marked data by the user operates independently from the channel information related to the broadcasted content.

Therefore, the Rhoads reference in combination with the Harris reference does not anticipate Claims 1, 21, 33, 40 and 47. Thus, independent Claims 1, 21, 33, 40 and 47 are in condition for allowance. In addition, Claims 2-20 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above. Claims 22-32 depend directly or indirectly on Claim 21 and therefore, are patentable for at least the same reasons discussed above. Claims 34-39 depend directly or indirectly on Claim 33 and therefore, are


patentable for at least the same reasons discussed above. Claims 41-46 depend directly or indirectly on Claim 40 and therefore, are patentable for at least the same reasons discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

Respectfully submitted,

Dated: 1/17/05


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